IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.120 OF 2006
IN
WRIT PETITION NO.6332 OF 2005

Association of Managements of Unaided Private Medical & Dental Colleges & anr. ..Applicants.

Vs.

Parents' Association of Medical Students & Ors. ..Respondents.

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Mr. Navroz Seervai, Senior Advocate with Mr. M.S. Doctor, Mr. Ravichandra Hegde, Mr. Luckyraj Indorikar and Mr. Pratik Pawar i/b M/s. Shaunak Satpute & Co. for the Applicants.

Mr. Shekhar Naphade, Senior Advocate with Mr. L.M. Acharya for Respondent No.1.

Mr. A.A. Kumbhakoni, Associate Advocate General with Mr. A.P. Vanarse, AGP for Respondent Nos.3 and 4.

Mr. G.S. Godbole with Mr. S.S. Deshmukh for Respondent No.7.

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CORAM: DR. D.Y. CHANDRACHUD &
R. S. MOHITE, JJ.

10th August, 2006.

P.C. :

1. The main writ petition, Writ Petition 6332 of 2005, was instituted before this Court on 22nd September, 2005 by the Parents' Association of Medical Students in the State of Maharashtra, a body registered both under the Societies

Registration Act and the Bombay Public Trust Act, 1950. The grievance of the Association was in regard to the manner in which admissions have been carried out by private unaided colleges engaged in imparting instruction in health science disciplines, particularly by medical and dental colleges. Interim orders were passed by this Court on 27th September, 2005 and 26th October, 2005 by which the Association of Managements of Unaided Private Medical and Dental Colleges was directed to furnish necessary information in regard to candidates who had been admitted to medical colleges. The State Government was directed to file an affidavit before this Court dealing with the complaints of the Parents' Association. In May 2006, when the Petition was placed before the Court a Division Bench of this Court of which one of us (D. Y. Chandrachud, J.) was a part, heard submissions on behalf of the Parents' Association, the State Government as well as the Association of Private Medical Colleges amongst other parties. In the course of the hearing of the Petition, a scheme was presented before the Court on behalf of all the contesting parties with a view to ensuring that admissions to medical, dental and other colleges in the health science disciplines are carried out on the basis of merit and in a fair and transparent manner. This Court by an order dated

5th May, 2006 took the scheme on record and disposed of the Petition in terms of the scheme, with the consent of learned counsel appearing on behalf of the parties.

2. The Court was moved in July 2006 for recalling or modifying the order dated 5th May, 2006 by the Association of Managements of Unaided Private Medical and Dental Colleges and K.J. Somaiya Medical College and Research Centre. On the request of counsel appearing for the Applicants, the Civil Application was permitted to be converted into an application by way of review. Accordingly parties were heard by this Court on 1st August, 2006, 8th August, 2006 and on 9th August, 2006.

3. Broadly speaking the grievance of the Association in regard to the scheme which has been finalized was that the scheme was not consistent with the principles of law laid down by the Supreme Court in **T. M. A. Pai Foundation v. State of Karnataka**[1] and the subsequent decisions in **Islamic Academy of Education v. State of Karnataka**[2] and **P.A. Inamdar v. State of**

1 (2002) 8 SCC 481
2 (2003) 6 SCC 697.

Maharashtra[3]. Since the matter related to a subject as important as the grant of admissions to a large body of students across the State of Maharashtra for courses in the health science disciplines and involved the interpretation of the constitutional rights that have been asserted by the managements of private medical and other colleges, we were of the view that the Civil Application must be dealt with in a broader perspective without being unduly affected by the technicalities of the matter. We wish to record that this is the spirit in which submissions have been addressed before the Court by all the learned counsel appearing for the contesting parties. We have evaluated the objections that were raised on behalf of the Applicants to the scheme as originally framed. This has been done and the judgments of the Supreme Court noted herein above have been cited before the Court. The scheme was discussed before the Court and after a broad consensus emerged, the parties expressed a desire that they would meet and finalize the terms of a revised scheme to be presented before the Court. The matter has accordingly been placed before the Court today.

4. Counsel appearing for the Applicants desired that the

3 (2005) 6 SCC 537.

Court should record the presence of the following persons including the President of the Association of Management of Unaided Private Medical and Dental Colleges in the Court :

1. Mr. Kamal Kishore Kadam
President, AMUPMDC &
Chairman of MGM Medical College,
(Navi Mumbai & Aurangabad).

2. Dr. Bhai Das Patil
Chairman, ACPM Medical &
Dental College, Dhule.

3. Dr. A.S. Chopde
Secretary/ Director,
VPDC Dental College, Sangli.

4. Dr. G.D. Pol
Chairman,
YMT Dental College, Khargar.

5. Mr. V. Rangnathan
Committee Member (AMUPMDC).

6. Mr. P.M. Kavadia,
Hon. Secretary,
K. J. Somaiya Medical College.

5. Counsel appearing for the Applicants has informed the Court that the Association and all its constituents have accepted the revised scheme. The learned Associate Advocate General appearing on behalf of the State has also stated that the State Government has agreed to the scheme. Counsel appearing for

the Parents' Association who has assisted the Court has also expressed his consent to the scheme. The scheme has accordingly been tendered before the Court signed by the learned counsel and by the authorized representatives of the respective parties and is taken on record and marked as 'X'. Since the scheme has been agreed to between the parties, it is not necessary for us to enter upon an elaborate discussion of the terms of the scheme but, it would be necessary for us to record that we have satisfied ourselves with the consistency of the scheme with the law that has been laid down by the Supreme Court. We have taken on record the assurance of the State Government through the DMER to provide forthwith all the necessary infrastructure to the Pravesh Niyantran Samiti that has been constituted in pursuance of the directions of the Supreme Court in **Islamic Academy of Education** (supra). The grievance of the Applicants before the Court was that the regulation of the admissions process has been entrusted under the judgments of the Supreme Court in **Islamic Academy** and in **P.A. Inamdar** (supra) to an Admissions committee presided over by a retired Judge of this Court and that, it is to that committee that the power of verifying and regulating the process of admission must be

conferred. Consistent with the law laid down by the Supreme Court, the scheme has accordingly incorporated necessary provisions for ensuring that the process by which admissions are granted by the private unaided colleges is fair, transparent and merit based. We record the assurance which has been made before the Court by the Learned Associate Advocate General that the State Government shall forthwith provide necessary infrastructure to the Committee which has been set up in pursuance of the directions of the Supreme Court. The scheme which has now been accepted on the record shall accordingly stand substituted in place of the original scheme in terms whereof this Court had disposed of the Petition on 5th May, 2006. The earlier order of this Court shall accordingly stand modified to that extent.

6. The scheme that has been formulated and placed on the record of the Court contains salutary provisions that would protect the interest of all the concerned stake holders including the students, managements and the society at large. We therefore expect that the scheme should be punctiliously observed both in letter and spirit with a view to ensuring that repeated complaints of

the nature that have been brought to the attention of this Court shall be obviated.

7. In view of the fact that the matter has been satisfactorily resolved before the Court, counsel appearing for the Applicants has stated before the Court that all the allegations that were made against the Seventh and Eighth Respondents are now not pressed and shall stand withdrawn. The Review Petition is accordingly disposed of since no other point has been pressed on merits.

(DR. D.Y. CHANDRACHUD, J.)

(R. S. MOHITE, J.)